

REMARKS

Claims 1 and 14 have been amended. No new matter has been added.

In the Office Action, claims 1-2, 14-17, and 22 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Attar, et al. (U.S. Patent Application Publication Number 2005/0020295). Claims 5-6, 9-13, 18-21, and 23-24 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Attar in view of Georgiou, et al. (U.S. Patent No. 4,845,704). Claims 7-8 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Attar in view of Hakkinen, et al. (U.S. Patent Application Publication No. 2004/0202147). Pursuant to the amendments indicated herein, the Examiner's rejections are respectfully traversed.

Attar describes a system that can be used to control channel power allocations in a wireless communication system that includes a plurality of access points that can communicate with an access terminal. See Attar, Abstract and Figure 1. Attar does not describe or suggest any techniques for deciding whether to concurrently transmit subframes associated with different frames using multiple resources based upon whether an acknowledgment or a non-acknowledgment message was received. However, the Examiner argues that the use of the term "if" in the previously pending claims implies that these claims read on a system that does not use acknowledgment or non-acknowledgment messages. Applicants have amended the pending claims to explicitly set forth that an acknowledgment or a non-acknowledgment message is transmitted and received in response to transmitting the first subframe of the first frame. Applicants have also amended the pending claims to set forth that decisions regarding subframe transmission are made "when" and acknowledgment or a non-acknowledgment message is received.

For at least the aforementioned reasons, Applicants respectfully submit that the pending claims (as amended herein) do not read on the subject matter described in Attar. Applicants respectfully request that the Examiner's rejections of claims 1-2, 14-17, and 22 under 35 U.S.C. § 102(e) be withdrawn.

Moreover, it is respectfully submitted that the pending claims are not obvious in view of Attar, Georgiou, and Hakkinen, either alone or in combination. A finding of obviousness under 35 U.S.C. § 103 requires a determination of the scope and content of the prior art, the level of ordinary skill in the art, the differences between the claimed subject matter and the prior art, and whether the differences are such that the subject matter as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made. *Graham v. John Deere Co.*, 148 USPQ 459 (U.S. S.Ct. 1966). To determine whether the subject matter as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made, one should determine whether the prior art reference (or references when combined) teach or suggest all the claim limitations. Furthermore, it is necessary for the Examiner to identify the reason why a person of ordinary skill in the art would have combined the prior art references in the manner set forth in the claims.

As discussed herein, Attar does not describe or suggest transmitting a first sub-frame associated with a second frame using a first wireless resource and a second wireless resource when an acknowledgement message is received in response to transmitting the first sub-frame associated with the first frame. Attar also does not describe or suggest transmitting a second sub-frame associated with the first frame using the first wireless resource and transmitting the first sub-frame associated with the second frame using the second wireless resource when a non-

acknowledgement message is received in response to transmitting the first sub-frame associated with the first frame.

Georgiou describes duplex transmission techniques that allow frames to be transmitted simultaneously between a source and a destination adapter. See Georgiou, col. 5, ll. 30-51. Hakkinen describes the use of do-not-transmit (DTX) sub-frames in a HARQ system. See Hakkinen, paragraph [0032]. However, neither of these references remedies the fundamental deficiencies of Attar. Applicants therefore respectfully submit that the prior art of record fails to teach or suggest all the limitations set forth in the pending claims (as amended herein). Applicants further submit that the Examiner has not provided any reason why a person of ordinary skill in the art would have been motivated to combine and modify the cited references to include the sub-frame transmission techniques described in the present application. To the contrary, the only suggestion for the entirety of the subject matter set forth in the pending claims (as amended herein) is found in the present application.

For at least the aforementioned reasons, Applicants respectfully submit that the pending claims (as amended herein) would not have been obvious over the prior art of record. Applicants respectfully request that the Examiner's rejections of claims 5-13, 18-21, and 23-24 under 35 U.S.C. § 103(a) be withdrawn.

For the aforementioned reasons, it is respectfully submitted that all claims pending in the present application are in condition for allowance. The Examiner is invited to contact the undersigned at (713) 934-4052 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

Date: November 21, 2008

/Mark W. Sincell/

Mark W. Sincell, Ph.D.

Reg. No. 52,226

Williams Morgan & Amerson, P.C.

10333 Richmond Avenue, Suite 1100

Houston, TX 77042

(713) 934-7000

(713) 934-7011 (Fax)

AGENT FOR APPLICANTS